

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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JAGUAR CARS, A Division of the Ford Motor
Company,

Plaintiff,

- against -

LEE IMPORTED CARS, INC.,

Defendant.
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Civ. No. 03CV12532RGS

DECLARATION OF JOSHUA POPE

I, Joshua Pope, do hereby declare as follows:

1. I am employed as the Analytical Services Manager for Urban Science Applications, Inc. ("Urban Science"). I make this affidavit based on my personal knowledge and on my review of Urban Science's records.

2. Urban Science is an independent company that provides market analysis and information technology services primarily related to sales and distribution networks. Urban Science serves a variety of clients, including automobile manufacturers and dealers.

3. I have been employed by Urban Science for over five years. My duties include the measurement and analysis of distances between automobile dealerships.

4. Pursuant to an e-mail sent on or about Friday, July 18, 2003 at or about 7:40 p.m., Jaguar Cars asked Urban Science to perform various market studies for the Boston area. Via e-mail sent on or about Tuesday, July 22, 2003, at or about 7:57 a.m., Urban Science provided the requested studies, which included a "Dealer Distance Map" showing the air miles between various Jaguar dealership points and proposed Jaguar dealership points in the Boston area. The referenced e-mail exchange, and the Dealer Distance Map, are annexed hereto as Exhibit A.

5. The Dealer Distance Map shows, among other things, that the distance between Lee Imported Cars, Inc. d/b/a Lee Jaguar ("Lee"), located at 962 Worcester Road, Wellesley, MA 02482, and the proposed site of Norwood Jaguar at 449 Neponset Street, Norwood, MA 02062, is 10.5 air miles.

6. I am advised that Jaguar has presented the Dealer Distance Map as an exhibit to this Court, and that in response Lee has (a) generally questioned the accuracy and reliability of the 10.5 mile measurement and (b) more specifically, has complained that Urban Science did not "use the closest boundary of the two [dealerships]," which is "required by" the statute when determining whether two dealerships are within the statutory eight (8) mile radius of one another.

7. I will address Lee's second point first. In creating the Dealer Distance Map, Urban Science was not asked to use the "closest boundary" of each dealership site. However, Urban Science determined that the coordinates obtained for the two sites are 10.5 miles from one another. Thus, the use of the "closest boundaries" of each site would not change the conclusion that the two sites are not within an 8-mile radius of one another, because it would not eliminate the extra 2.5 miles (in excess of the statutory eight (8) miles) between them. This conclusion would be subject to challenge only if the two dealership sites were so large that, in combination, their boundary lines were over 2 miles long. I have been asked to assume that neither site is larger than 5 acres or has a boundary line larger than 1,000 feet. Based on that assumption, a re-measurement of the distance from the "closest boundary" of each dealership would not reduce the distance between the two dealerships from 10.5 miles to eight (8) miles or less.

8. Secondly, the 10.5 measurement is accurate and was made by reliable and well-accepted methodology. For purposes of this declaration, I have re-performed the distance measurement and confirmed the 10.5 mile measurement. A map reflecting my distance measurements is annexed hereto as Exhibit B.

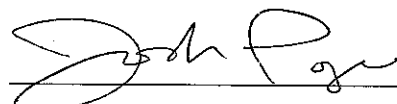
9. The coordinates used in Exhibit B for the Lee Jaguar location are 42.3044 latitude and -71.3230 longitude. These coordinates were determined by global positioning satellite ("GPS") readings obtained by an Urban Science employee who drove into the Lee Jaguar's new car lot and recorded the coordinates. GPS readings are well-recognized and accepted as accurate and reliable.

10. The coordinates used for the proposed Norwood location are 42.1935 latitude and -71.1838 longitude. These coordinates were determined by using the Tele Atlas North American Geocoder and confirmed with coordinates obtained from other geocoders, including MapPoint, MapBlast, MapQuest, and Travel GIS. The Tele Atlas North American Geocoder is well-recognized and accepted as accurate and reliable.

11. I measured the distance between the two coordinates by entering them into Urban Science's computer marketing analyses system ("Market Smarts"). The Market Smarts system has a program that uses a standard, straight-distance formula for measuring the air miles between two points. Urban Science regularly uses the program, in the ordinary course of its business, for measuring distances. The program is accurate and reliable.

12. Exhibit B displays the zip code polygons that make up the Jaguar areas of responsibility ("AOR's") within Boston. The proposed Norwood dealer and the current Boston area Jaguar dealers are identified as the numbered white squares. The blue circle centered on the proposed Norwood location circumscribe the areas of Massachusetts that lie within eight miles from that location. The red lines connecting the dealer squares indicate the straight-line air distance from one location to another.

Signed under the pains and penalties of perjury this 23 day of April, 2004.


Joshua Pope

